

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
SHANE COWLEY,
Defendant-Appellant.

No. 00-4612

Appeal from the United States District Court
for the Southern District of West Virginia, at Charleston.
John T. Copenhaver, Jr., District Judge.
(CR-99-170)

Submitted: April 6, 2001

Decided: April 30, 2001

Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Michael R. Cline, MICHAEL R. CLINE LAW OFFICES, Charleston, West Virginia, for Appellant. Rebecca A. Betts, United States Attorney, John C. Parr, Assistant United States Attorney, Bryant J. Spann, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Shane Cowley appeals his conviction for possession of a stolen firearm in violation of 18 U.S.C.A. §§ 922(j), 924(a)(2) (West Supp. 2000), attempted possession with intent to distribute methamphetamine in violation of 21 U.S.C.A. § 846 (West Supp. 2000) and 18 U.S.C.A. § 2 (West Supp. 2000), use of a firearm in connection with a federal drug-trafficking offense in violation of 18 U.S.C.A. § 924(c)(1), (2) (West Supp. 2000), and witness tampering in violation of 18 U.S.C.A. § 1512(b)(1), (2) (West Supp. 2000). We affirm.

Cowley contends the district court erred by excluding the tape recorded statements of an unavailable declarant as inadmissible hearsay. The admission or exclusion of evidence rests in the sound discretion of the trial judge; his decision will not be reversed without a showing that he abused his discretion. *United States v. Ellis*, 121 F.3d 908, 926 (4th Cir. 1997).

We have reviewed the record and briefs and find the district court did not abuse its discretion by excluding the statements. Accordingly, we affirm Cowley's conviction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED